

**BOONE COUNTY PLANNING & ZONING COMMISSION**  
BOONE COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS  
801 E. WALNUT, COLUMBIA, MISSOURI  
(573) 886-4330

**Minutes**

**7:00 P.M.**

**Thursday, April 19, 2012**

I. Chairperson Harris called the meeting to order at 7:00 p.m., with a quorum present.

II. Roll Call:

a. Members Present:

Boyd Harris, Chairperson	Centralia Township
Carl Freiling, Vice-Chairperson	Cedar Township
Mike Morrison, Secretary	Columbia Township
Eric Kurzejeski	Missouri Township
Gregory Martin	Katy Township
Kevin Murphy	Perche Township
Michael Poehlman	Rock Bridge Township
Brian Dollar	Bourbon Township
Paul Prevo	Rocky Fork Township
Derin Campbell	County Engineer

b. Members Absent:

Larry Oetting	Three Creeks Township
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c. Staff Present:

Stan Shawver, Director	Uriah Mach, Planner
Thad Yonke, Senior Planner	Bill Florea, Senior Planner
Christina Crane, Staff	

III. Approval of Minutes:

Minutes from the March 15, 2012 meeting were approved by acclamation.

IV. Chairperson Statement

Chairperson Harris read the following procedural statement:

The Boone County Planning and Zoning Commission is an advisory commission to the County Commission. The commission is made up of individuals representing each township of the county and the county engineer.

The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes one conditional use permit, a rezoning request and four subdivision plats.

In general, the Planning and Zoning Commission tries to follow Robert's Rules of Order, however, it is authorized by the Missouri state statutes to follow its own by-laws. The by-laws provide that all members

of the commission, including the chairperson, enjoy full privileges of the floor. The chairperson may debate, vote upon or even make any motion.

The following procedure will be followed:

The agenda item will be announced, followed by a report from the planning department staff. At that time, the applicant or the applicant's representative may make a presentation to the commission. The commission may request additional information at that time, or later following the public hearing. After the applicant's presentation, the floor will be opened for a public hearing to allow anyone wishing to speak in support of the request. We ask that any presentation made to the commission be to the point.

Next, the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the commission and please restrict your comments to the matter under discussion. Please be considerate of everyone here. We ask that you please not be repetitious with your remarks. We also recognize that some issues can be quite emotional. In that regard we ask that you refrain from applause, cheers, or other signs of support or displeasure. Please afford those with a different point of view than yours the same respect and consideration you would like yourself.

There may be individuals that neither support nor oppose a particular request. Those individuals are welcome to address the commission at any time during the public hearing portion of the request.

Please give your name and mailing address when you address the commission. We also request that you sign the sheet on the table after you testify. Also, we ask that you please turn off your cell phones.

Any materials that are presented to the commission, such as photographs, written statements or other materials will become a part of the record for these proceedings. In that regard, if you would like to recover original material, please see the staff during regular business hours after they have had an opportunity to make a copy of your submission.

After those opposed to the request have had a chance to speak, the applicant will have an opportunity to respond to the concerns of those opposed to the request. Next the staff will be given an opportunity for any additional comments, as appropriate. The public hearing will then be closed and no further comments will be permitted from the audience or the applicant unless requested by the commission. The commission will then discuss the matter and may ask questions of anyone present during the discussion. Finally, a motion will be made to either recommend the approval or denial of the request to the County Commission. Please note that the Boone County zoning regulations and subdivision regulations are considered to be a part of the record of these proceedings.

All recommendations for approval are forwarded to the County Commission. They will conduct another public hearing on Tuesday, May 1<sup>st</sup>. Interested parties will again have the opportunity to comment on the requests at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 working days. Please contact the planning office to see if a request that has been denied has filed an appeal, as there will be no further public notification due to the short time between the hearing tonight and the County Commission hearing. The County Commission hearing scheduled for Tuesday, May 1<sup>st</sup>, will begin at 7:00 p.m. and will convene in this same room.

V. Conditional Use Permits

1. Request by Debra Diller to revise a permit for Riding School and Equine Boarding Facility on 13.1 acres, located at 5950 N Boothe Ln., Rocheport (original permit approved 5/4/10).

Planner, Uriah Mach gave the following staff report:

The subject property is located on a private drive off of Boothe Lane, approximately 6 miles northeast of Rocheport. It is 13.1 acres in size, and has a house, covered riding arena, outdoor riding arena, corral, and a stable on-site. The property is zoned A-1 (Agriculture) and is surrounded by A-1 zoning. This is original 1973 zoning. The master plan designates this area as being suitable for agriculture and rural residential land uses. In 2002, a conditional use permit was granted for a similar facility approximately 800' south of this site. Staff notified 10 property owners about this request.

A conditional use permit for a Riding School and Equine Boarding Facility was granted to the applicant, at this location, in March 2010. That permit was granted with a number of conditions which the applicant is seeking to have modified.

The following conditions are attached to the 2010 conditional use permit:

1. The structures utilized by this use are brought into compliance with Boone County's building code and the fire code to the satisfaction of the Director of Planning & Building Inspection and the Boone County Fire Protection District.
  - a. Structure to be left open except for the side enclosed by stables.
2. Limited to 10 horses, including owner's horses.
  - a. Up to 6 additional horses allowed on property when associated with training exercises.
  - b. Any horse present on the property for more than three continuous days shall be deemed a boarded horse and count towards the 10 horse limit.
3. Operating hours 7:30 AM to 9:00 PM.
4. Manure and other waste material shall be disposed of in an appropriate manner so as to create no impact to adjacent properties.
5. Access drive at least 18' wide to allow two vehicles to pass.
  - a. Widening to be completed by June 1, 2010.
  - b. Access drive improvements to extend 50' past tract driveway.
  - c. All improvements are at applicant's expense unless other users agree to share in the cost.
  - d. Surface to be a minimum of chip and seal by September 1, 2011.
6. Provide off street parking for 5 vehicles.
  - a. Off street parking and interior driveway to be dust free.
  - b. All event parking must be contained on site.
7. Portable toilet to be on site.
8. Any lighting is to be directed inward and downward.
9. County Health Department to be allowed access to sample pond from May to September to determine suitability for full body contact.
10. No 3rd party rental of the facility.
11. No parties.
12. Any overnight stay must be related to a site specific event.
13. Plant and maintain two rows of red cedar trees or other suitable evergreens to break up silhouette of the under roof riding facility.
  - a. Trees are to be no more than 30 feet apart.
  - b. Trees are to have a minimum diameter of 3 inches at grade.

14. Revised access and maintenance easement submitted prior to operation.
  - a. Revised access and maintenance easement to be recorded at applicant's expense with the Boone County Recorder of Deeds.
15. Amplified sound system not permitted.
16. No horse trailers stored on site.

The applicant is requesting a conditional use permit for a riding school and an equine boarding facility as a means to modify the conditional use permit granted in March of 2010.

As of this meeting, the applicant has failed to meet the conditions involving building code compliance, the access road, driveway, and off-street parking surfacing. The applicant has been partially successful in meeting the tree-planting/screening condition.

After a complaint was received, the applicant was notified that some form of action would need to be taken to amend or modify the conditional use permit or it would face revocation by the County Commission due to lack of compliance with the permit conditions. The applicant decided to apply for a new conditional use permit to modify the conditions. The applicants are requesting the conditions be changed to allow for the following:

- Propose an alternative access drive surface and confirm access drive size.
- Request extension to comply with updated zoning conditions.

The following criteria are the standards for approval of a conditional use permit followed by staff analysis of how this application may meet those standards. Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

(a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.

If operated in conformance with existing county regulations, the use should comply with this criterion. The applicant's architect submitted plans in November of 2011, later amended in January of 2012. Those plans received an approval in February of 2012 by letter from the director of Resource Management. That letter indicated that a building permit application could be submitted with appropriate fees. Compliance with the building code would allow for this criterion to be met.

(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.

The current conditional use permit has conditions limiting the hours of operation, lighting, waste disposal, and activity on the site. Those conditions and the requirement for vegetative screening as an effort to screen the covered riding arena are related to success in meeting this criterion. Based on the limited efforts in vegetative screening, this criterion has not been met. Public testimony may provide more information.

(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

If operated in conformance with existing county regulations, the use should comply with this criterion. Public testimony may be indicative as to whether this criterion is met.

(d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access, and drainage.

The issue of roads and road access is of note for this use. The subject property does not have direct frontage on to Boothe Lane. It has access to public roads via a private driveway that extends across the tract immediate adjacent to the north and one that lies to the northwest. That private drive, the access drive for the subject property, and the internal circulation roads have not been widened and surfaced to meet the requirements of the current conditional use permit. This criterion has not been met.

(e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

This property has already developed in compliance with the present zoning of the area (A-1). The establishment of this conditional use permit will not impede the further development of this area unless a rezoning to a higher density is sought for the surrounding properties.

(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.

Issues with the conditions related to the private drive off of Boothe Lane indicate that while congestion is not a problem, dust and speed are. The conditions related to the private drive should be sufficient to deal with these issues.

(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

The proposal conforms to other applicable regulations of the A-2 zoning district.

Zoning Analysis: Conditional use permits are structured to allow the governing bodies to approve uses that may be appropriate in the zoning district but which require special review in order to determine whether the proposed use will have an adverse impact on the surrounding area. In 2010, the Planning & Zoning Commission and County Commission approved this use with a substantial list of conditions and a schedule for compliance with those conditions. The applicant has failed to meet that schedule. The action that has been taken by the applicant to meet the requirements of the current conditional use permit has been limited in scope and success. That said, there is no reason to offer additional time for compliance. Per the current conditional use permit, conditions 1, 5, 6, and 13 have not been met. Those conditions deal with building & fire code compliance, access drive widening & surfacing, off-street parking/internal circulation, and vegetative screening. When combined with complaints by property owners for non-compliance with specific conditions of the prior conditional use permit, approval of this request is highly dubious.

Staff recommends denial of the request and termination of the conditional use.

If the Commission desires to approve the conditional use permit, staff has the following conditions:

1. The structures utilized by this use are brought into compliance with Boone County's building code and the fire code to the satisfaction of the Director of Resource Management and the Boone County Fire Protection District.

- a. Structure to be left open except for the side enclosed by stables.
2. Limited to 10 horses, including owner's horses.
  - a. Up to 6 additional horses allowed on property when associated with training exercises.
  - b. Any horse present on the property for more than three continuous days, regardless of whether it is being used for training exercises, shall be deemed a boarded horse and count towards the 10 horse limit.
3. Operating hours 7:30 AM to 9:00 PM.
4. Manure and other waste material shall be disposed of in an appropriate manner so as to create no impact to adjacent properties.
5. Access drive shall be at least 20' wide to allow two vehicles to pass.
  - a. Widening to be completed by June 1, 2012.
  - b. Access drive improvements to extend 50' past tract driveway.
  - c. All improvements are at applicant's expense unless other users agree to share in the cost.
  - d. Surface to be a minimum of chip and seal by July 1, 2012.
6. Provide off street parking for 5 vehicles.
  - a. Off street parking and interior driveway to be dust free.
  - b. All event parking must be contained on site.
7. Portable toilet to be on site.
8. Any lighting is to be directed inward and downward.
9. County Health Department to be allowed access to sample pond from May to September to determine suitability for full body contact.
10. No 3rd party rental of the facility.
11. No parties.
12. Any overnight stay must be related to a site specific event.
13. Plant and maintain two rows of red cedar trees or other suitable evergreens to break up silhouette of the under roof riding facility.
  - a. Trees are to be no more than 30 feet apart.
  - b. Trees are to have a minimum diameter of 3 inches at grade.
  - c. Plantings to be completed by June 1 2012.
  - d. Any diseased, dead or dying trees must be replaced within one growing season.
14. Revised access and maintenance easement shall be submitted prior to operation.
  - a. Revised access and maintenance easement to be recorded at applicant's expense with the Boone County Recorder of Deeds.
15. Amplified sound system not permitted.
16. No horse trailers stored on site.

Present representing the request:

Debra Diller, 5950 N. Boothe Ln., Rocheport

Debra Diller: I am at a point in this process where I am retaining a lawyer who was unable to attend the meeting. I request that we table this request for one month so the lawyer can be present to represent this request.

Chairperson Harris: At this point that action would be at the discretion of this Commission. We are dealing with a request that has had a complaint on the property subject to that permit; more than ample time has been allowed to comply. It is up to the Commission how they want to proceed. The hearing has been posted and the neighbors notified in accordance with the statute that the hearing would be held this evening.

Commissioner Prevo made a motion to proceed with this request tonight.

Commissioner Freiling: (to staff) Is there something we should be considering that is not obvious?

Director, Stan Shawver: There is not really a set procedure; it is entirely up to the Commission. As the Chairperson has indicated, notice has been provided and the applicant has had ample opportunity to seek legal advice. In the past when the Commission had applicants ask to table their request the Commission has typically honored those, but it is up to the Commission.

Commissioner Dollar: How many people are present in the audience regarding this request?

Approximately ten people raised their hand.

Commissioner Poehlman stated he would like to continue with the request tonight.

Chairperson Harris: Lacking a motion to table the request the hearing will proceed as scheduled and posted.

Debra Diller handed copies of a slide show presentation to the Commissioners titled "Welcome to 'Horsin Around'".

Debra Diller made a slide show presentation stating the following:

Mr. Mach already spoke to some of this. This request has already been approved. Mr. Mach informed me that rather than just speak to the one condition I want to change I have to defend the entire conditional use permit. We are not going to be impairing property values. There is a portable restroom and there is no evidence that it will impede development, there is a private driveway that will be sufficient width and maintenance with the limited traffic generated. No evidence that the proposed use will be detrimental; it has already been approved, the Commission did that. Two years ago I got the approval of the permit with the twenty conditions and it sounds like I haven't done anything so I want to show you what I have done. There are emails, phone calls, driveway permits – the driveway has been widened according to my permit. The trees are installed according to the permit. Even though they approved it on March 30, 2010 I didn't receive it until May 5, 2010 and the driveway didn't need to be completed until June 2010, it was completed in May 2010.

Condition one: The structures utilized by this use be brought into compliance. I hired an idiot for a contractor and I paid for it and I am still paying for it and I will continue to pay for it until it is right. It is in compliance structurally but it doesn't have enough points in it with the size so I have to add a 24/7 monitored fire detection system, extra gates and things that don't affect it structurally.

Condition two: Limited to ten horses. Mr. Mach talked about that already. I utilize paddock management; there is rotational grazing, I use specific kinds of fencing, multiple paddocks, there are seeding and fertilizing, mowing/harrowing, I do a rotational turn out system.

Pictures presented: Pastures and horses. The applicant described the pictures.

Condition three: Operating hours.

Condition four: Manure and other waste material shall be disposed of in an appropriate manner. I have multiple ways of managing the manure; I use a spreader and a harrow. It is simply a matter of breaking the manure down, it dries up in hours and flakes away.

Condition five: Access drive. Widening to be completed by June 2010. It was finished in May (2010), surface minimum of chip and seal. This is the big issue, the chip seal surface; that is the main reason I am here.

Picture presented: 1200 foot driveway.

The driveway is now 18 feet wide which is what the conditional use permit asked.

Condition six: Off street parking. Not a problem.

Condition eight: Any lighting directed inward and downward. The lighting is very recessed, you can't see it from outside

Condition nine: County Health Department to be allowed access to sample pond.

Condition ten: No third party rental.

Condition eleven: No parties. This is not why I built this facility. I built this for people to ride, train their horses, for me to train horses, and to help people learn about horses and to be better riders. My neighbors are concerned that there will be some rowdy groups. In the past two years none of them will be able to tell you that it is anything like that. It is very low impact, very low key.

Condition twelve: Any overnight stay must be related to a site specific event.

Condition thirteen: Trees. There are two rows of trees, they are three inches at grade and are ten feet apart.

Picture presented: Row of trees.

I don't know that I should be punished for tree growth. I planted the trees I was asked to plant.

Condition fourteen: Revised access and maintenance easement submitted prior to operation. I did all that and got it notarized and got it to the Recorder of Deeds. The neighbors, we all talked about this at the other meeting, I pay three-sixths and everyone else pays one third.

Condition fifteen: Amplified sound system not permitted.

Condition sixteen: No horse trailers stored on site.

This brings us to the deadline time, September 2011. Planning and Zoning got a complaint letter, I immediately set up a meeting to come in and when I was at the meeting they told me that the permit that I had been sent was the wrong one. I think the building is ready to go and they told me at the meeting that was the wrong permit. We talked about the driveway and to discuss it with the neighbors and discussed options whether to use river rock, magnesium chloride, chip seal is weak, and beyond that is asphalt and concrete. The buildings needs were a priority simply because it was a safety issue. After the meeting I immediately started to contact the architect and Mr. Mach to make sure he knew I was working on it. Mr.



Mach stated it is always good to let us know that you are working on it so we can let people know that you aren't just sitting there.

Presented dates regarding contact with architect, planner, engineers, etc.

I hired the architect to change from A-1 to A-4. In November he finished his study and sent a letter to Mr. Shawver. I emailed Mr. Mach, got an email from the architect, and sent a letter to the neighbors just to update them.

Slide: Change of Use. There were five modifications from A-1 to A-4 and S-1. The automatic fire detect system, monitored fire alarm, extra exits, means of emergency lighting, and occupancy load restriction.

Slide: Resource Management

This is the other reason. The letter that I got from my architect noted five changes, I didn't know he revised that letter to the Director where he changed it to six modifications and interestingly the additional change was the driveway width. I did not know he did this, I hired him to work on the building, the next thing I know he is rewriting this adding driveway stuff, that is not why I hired him. The letter that Mr. Shawver sent to my architect never was sent to me but it says he does agree with the deficiency and allows the change of use but did mention the six modifications and says a building permit application can be submitted accompanied by a project schedule and completion dates but my conditional use permit is still in effect with a change in the 20 foot driveway.

Slide: Currently..

I came up and requested to revise the conditional use permit, I attempted to have a neighborhood meeting and one of the neighbors emailed, the Commissioners have a copy of that in their packets, I contacted a planner and asked about postponing it, is it about one issue and I was told the entire conditional use permit is considered. I asked what if I couldn't be here or my attorney couldn't be here, the planner said it would be an immediate revocation. I have driveway bids and they are all in upwards of \$60,000 to finish the driveway, I needed to talk to an attorney about all of this and wanted to table the hearing so we could do a bit more work.

Slide: Gravel Rocks

Back to the driveway, in 1990 there was a stipulation about being grandfathered in if you have a gravel driveway due to a change in the regulations; I couldn't find these regulations anywhere. Apparently it says that every conditional use permit has to have a chip seal driveway, I can't find that anywhere. In April 2002 it is mentioned again that there is some regulation about this kind of driveway and later on that year someone was granted a variance and rather than widening the street they kept it at 28 feet because of topography. Commissioner Miller was concerned about the amount of chip seal in the county and that the county could maintain it only if it can afford to. Seven years later the Lakota Ridge ball field requested using magnesium chloride, saying the owner, since he could maintain it and keep the dust down Commissioner Miller said she would be okay with it. So even though there is a regulation it has been altered and revised which I love because it shouldn't just be a one size fits all with these driveways.

Slide: 90% Compliant

I am 90% compliant, I am seven months behind on compliance. I have shelled out a lot of money and I am still paying and I still want my facility, I love it. But I have a 1200 foot driveway, this is an economic

burden, it is an excessive hardship and if we want to go back and look at the size of this driveway. My neighbors and I chose property off a gravel road, we have the skills and all the implements to manage that driveway. The guys who did the bids on the driveway said that in a perfect situation chip seal lifespan is three to five years. Our driveway is still not perfect, it is way too steep, we have a lot of runoff and multiple kinds of trailers use that driveway, we all have rock delivered occasionally, propane trucks, shipping trucks, hay trailers; the driveway is used, the biggest issue is the grade. It is steep for chip seal and the guy said as soon as I wind that up there are going to be potholes and it will have to be redone. Once it done, from then on it is going to have to always be done and that is not what we signed up for when we bought our property off that driveway.

Slide: Options

I want to maintain that driveway; I widened it like I was asked to 18 feet. We can certainly create dust free conditions in the winter when the prevailing winds are north/northwest. That is the only direction we need to worry about with the closest person to this driveway who doesn't even live off of the driveway. We could petition as a neighborhood improvement district and go with asphalt so the county could maintain it. We could acquire public maintenance with tier lots brought up to public standards. Or I could apply for a variance. I need to find a balance. Enclosed with the Commissioner's packets is a chart of all the other stables and I have all those conditions checked and those stables have two or three, maybe four. There is one that has a few more. This is becoming idiotic. I am in compliance, Mr. Mach was flying through his remarks and I am not sure what they were looking at but when they tell me they come out they never actually come out to the property, they sit looking at it. The trees could be bigger; it was about \$3,000 for that and I planted what they told me to plant. It is not that I haven't done everything I want to make sure I comply, especially with the barn coming up. I will be complying with all of those new modifications but I knew I needed to come in and make sure the Commission was aware that there is a strange discrepancy now with the driveway width and I want to modify the barn, whatever those modifications are but with the deadline I didn't want to move on ahead of it.

Slide: "In order to have faith in his own path, he does not need to prove that someone else's path is wrong."

Slide: Bullies – Unable and unwilling to recognize the effect of their behavior on others. Seething with resentment, bitterness, hatred, and anger. Driven by jealousy and envy. Undermining, fault-finding, predatory, opportunistic. Fear of exposure of his/her inadequacy and incompetence.

Debra Diller stated the last slide (Bullies) was something that she would address later. Chairperson Harris asked that it be removed as he believed it was inappropriate.

Commissioner Prevo: (to staff) Please reiterate the things that are not in compliance.

Uriah Mach: As staff indicated the applicant is not in compliance with condition one "the structures utilized by this use be brought into compliance with Boone County's building code and the fire code to the satisfaction of the Director of Planning and Building Inspection and the Boone County Fire Protection District".

Commissioner Prevo: Is that because the driveway hasn't been widened to 20 feet?

Uriah Mach: That is part of it. The building permit has not been taken out to bring this up to a commercial standard. The Fire District has requested the additional widening. Also, condition five has not been met with the regard to widening the access drive and surfacing. Condition six, with regard to off

street parking being dust free. Condition thirteen which is the vegetative screening; it is supposed to be two rows of trees not more than thirty feet apart.

Debra Diller: It's not two rows altogether?

Uriah Mach: No.

Debra Diller: So it is supposed to be 40 trees?

Uriah Mach: The concept behind this condition was that you vegetate along the perimeter so it will screen the site in some fashion. I understand the topography of the property is such that along the exact perimeter is not feasible but some sort of design to break it up the overall sight of the building.

Debra Diller: There are two rows of trees; one on each side.

Uriah Mach: Two rows of cedar trees; our interpretation is two rows along each side around the perimeter of the building.

Debra Diller: So I could have put two rows on one side?

Uriah Mach: No, it has to go around the perimeter of the building.

Debra Diller: But it says twenty trees.

Uriah Mach: No, it says that trees are to be no more than thirty feet apart; it did not indicate the number of trees. The condition states: Plant and maintain two rows of red cedar trees or other suitable evergreens to break up silhouette of the under roof riding facility. Trees are to be no more than 30 feet apart. Trees are to have a minimum diameter of 3 inches at grade.

Debra Diller: Well they are ten feet apart.

Uriah Mach: I am not disagreeing with that.

Commissioner Poehlman: The staff report indicated that there have been no building permits issued to bring the building into compliance?

Uriah Mach: After her hearing in 2010 she took out an initial permit to bring the structure in to compliance with the residential building code. In late 2011, early 2012 Connell Architecture has submitted plans for conversion of the structure in to a commercial building. Staff sent a letter to the architect stating six conditions of approval for the plans.

Thad Yonke: The 20 foot lane requirement by the Fire Department is integral with the architects being able to meet the building code. In order for us to say it does meet the building code, it only does that if you have that 20 foot fire lane.

Debra Diller: How come two years ago it was 18 feet?

Chairperson Harris: We will ask staff those questions soon. What year did the applicant acquire this property?

Debra Diller: 2003

Chairperson Harris: The dwelling that is on the property existed as of that date?

Debra Diller: The only thing that was there was the perimeter fence and the house.

Chairperson Harris: In this photograph there is a tall building with white painted metal siding and open sides; at the left edge of the photo is a shorter building with yellow painted siding. The applicant states the building did not exist when she bought the property in 2003, just the house?

Debra Diller: That is correct.

Chairperson Harris: Did the applicant, prior to construction of the yellow sided building, obtain a building permit from the Planning Department.

Debra Diller: I did.

Chairperson Harris: What year was that?

Debra Diller: 2006 or 2007.

Chairperson Harris: At that time, it was for personal use only?

Debra Diller: Yes.

Chairperson Harris: At that time was that only intended for your use or did you have some beginnings of the horseman ship clinic in place at that time?

Debra Diller: I had summer camps.

Chairperson Harris: Open to the public?

Debra Diller: Yes.

Chairperson Harris: For a fee?

Debra Diller: Yes.

Chairperson Harris: You were doing this in a building that was permitted for your personal use at the time of construction it was a utility building?

Debra Diller: It was a barn.

Chairperson Harris: The big white building with the open sides, when was that constructed?

Debra Diller: Three years ago.

Chairperson Harris: So in 2009. Did you obtain a building permit prior to construction of that building?

Debra Diller: No; I didn't know I was supposed to.

Chairperson Harris: So having built one building in Boone County and obtaining a building permit previously, 24 months later you start a larger building and you weren't aware that you needed a building permit?

Debra Diller: My contractors took care of it. The first contractor started the building and he came down and took care of it. I didn't know that at the time. The second contractor stated that we could come in later and you won't have to do all your drawings and we will come later and do it as an as-built or something; I said "fine".

Commissioner Freiling: So the first contractor came in and took care of it; what did he do? Did he get a building permit?

Debra Diller: Yes.

Commissioner Freiling: So when you speak of the first building contractor, that was for the yellow building and the second building contractor said "let's not do that"?

Chairperson Harris: At no point did the builder of the bigger building bring the applicant an application to sign as the property owner of a building permit?

Debra Diller: No.

Chairperson Harris: And at no point in that process did that seem odd to you having done it yourself once already?

Debra Diller: I didn't do it, those guys did it.

Chairperson Harris: At any point did you communicate to Planning and Zoning staff that your intent was for this property to be used as a commercial enterprise?

Debra Diller: I didn't know what all of that meant. I counted on my contractor to do all that. I teach for a living, and I love horses and I wanted to work with horses.

Chairperson Harris: So being in the county with the reputation for zoning, it never occurred to the applicant to ask questions of any entity as to whether you could legally open up a business enterprise on an A-1 zoned tract of land?

Debra Diller: I didn't know what that was; I just wanted my arena.

Chairperson Harris: But did you make any effort to avail yourself of that knowledge and the proper protocol during the course of all of this?

Debra Diller: No, I honestly was trusting someone to take care of it.

Chairperson Harris: What date was Ms. Diller notified of the complaint?

Uriah Mach: The original complaint or the current complaint.

Chairperson Harris: The current complaint.

Uriah Mach: I believe it was a September 19, 2011 letter indicating that we had a complaint of no activity on the dust free surface of the access drive and there was no action on the building permit side to convert the building to a commercial structure. The September date was established by the 2010 hearing; we investigated the complaint and sent a letter.

Chairperson Harris: When was the letter sent to Ms. Diller?

Uriah Mach: I believe it was September 2011.

Chairperson Harris: The 2010 hearing requesting the conditional use permit; that was initially instigated also as a result of a complaint?

Uriah Mach: Yes.

Chairperson Harris: I am trying to understand the timeline; the applicant was notified in September 2011 that there was a complaint. What date was the applicant notified of this hearing?

Uriah Mach: I believe she was notified in February 2012.

Stan Shawver: I spoke with Ms. Diller about the middle of March.

Chairperson Harris: The problem I am having is putting the time frame together and tying the lack of compliance or lack of finding out the proper procedure. If someone wants to retain counsel that is fine, I find it somewhat odd that it gets done 24 hours before the hearing date. The other issue is that you've changed gears; the applicant has expressed great frustration over the width of the road yet item number one on both of these was that it had to be brought in to compliance to the County Fire Standards.

Debra Diller: The building had to be brought in to compliance.

Chairperson Harris: Access for life safety issues and fire protection is part of that compliance. The 18 feet, had that been only for your use, they were agreeable to. Your frustration of having to widen this is because you've gone to an assembly building rather than just a personal use building.

Debra Diller: I widened it to 18 feet, we're good.

Chairperson Harris: The applicant did. The day before yesterday I stepped that driveway off in two different places to see that it was wide enough. I've seen the property; I know what you have there. I also know that you have a very steep driveway and it is eroding into that 18 feet. While I understand the applicant's frustration some of that has been brought about by the change in use of the building and the need to comply with life safety. They've got to be able to bypass that fire apparatus on a solid paved road without worrying about the shoulder eroding beneath them and right now, for a pretty good stretch, they can't do that.

Commissioner Murphy: The original application was received in 2009 or 2010?

Uriah Mach: The original application was approved in 2010.

Commissioner Murphy: It was conditioned to have a dust free driveway and parking lot?

Uriah Mach: That is correct.

Chairperson Harris: Through the interim from 2010 until tonight the applicant has held clinics and people have been in and out; the applicant has been running her business.

Commissioner Prevo: The original conditional use permit was approved in March 2010; an estimate for the driveway that the applicant provided was from Monday of this week.

Debra Diller: Someone from Frech came out Monday evening and he printed off the one from 2010; he said the only change would be \$6000 more dollars due to the economy.

Commissioner Prevo: So knowing that you had to do the chip and seal for the last couple of years...

Debra Diller: These were the two companies that the County recommended; I called about ten of them, no one else chip seals.

Open to public hearing.

Present, speaking in support of the request:

Cynthia Smith, 1009 Krohn Dr., Boonville

Cynthia Smith: I have been boarding horses since I was in college; I have also trained, showed, and raised Arabian horses for the last 20 years. A year ago I left my current boarding facility and started looking for a new boarding facility. There were some things that I wanted as a professional equestrian that I found at Ms. Diller's stable. I wanted a large indoor arena and a safe environment. Looking at the structures you can see that there are several out pens for the horses to go in to and there is also a perimeter fence around it. This is the safest environment that I have found; it is also the cleanest. I have been at a lot of boarding stables and I have very seldom seen the restrictions that she is being asked to do. We take our horses to St. Louis and there are 110 horses there and we are showing all day; yes we need room for fire trucks and ambulances there. That is not necessary here. We are talking about 10 horses, five adults, and maybe some little kids at the applicant's facility. This is not a huge safety environment that you are asking for a widened driveway. In my time that I have been working with Ms. Diller I can attest that she is a professional person who has made every accommodation for the requests that I have made. I can honestly say that in the year I have been there I have requested accommodations and made specific requests and she has done everything that she could to meet those requests. I would love for her to be able to keep this facility open and for us to have some clinics there. This is by far the nicest facility that I have ever had the privilege of using.

Commissioner Prevo: You work in the insurance industry?

Cynthia Smith: Yes.

Commissioner Prevo: Hypothetically, you walk up to a house and you are an insurance agent and it is the most beautiful lawn you have ever seen and you are asked to insure a house and you say "fine I will insure your house if in the next 90 days you replace the roof". 90 days goes by and the roof hasn't been replaced and after 120 days it still isn't replaced. Do you say that is okay I'm not going to make you replace the roof after all; you've met most of the conditions. Will that be the response the insurance company would make?

Cynthia Smith: I will give you an example. I lived in a trailer over in Fayette and my insurance agent came out to insure it but told me I needed to put steps on the back of the trailer to bring it up to code. Two years later I still hadn't put the steps on the trailer and my insurance is still maintained. I am not saying that is right or wrong I am just saying the insurance didn't follow up. I've been in the insurance industry for ten years and some things are brought in to compliance and some things you just do your best. For instance we have six people who are sitting here who are going to bring in horses, we are going to pay our board regularly, and practice in a safe environment. The trees and things like that, if you ask me a horse is beautiful, a barn is beautiful and if I drive up that driveway I see a beautiful facility.

Commissioner Prevo: So you are saying it is okay if you don't meet the stipulations as long as no one follows up?

Cynthia Smith: No that's not what I'm saying.

Commissioner Prevo: I just wanted to clarify. I work in child care and I have licensing rules and I know that if I were told to put in a handicapped accessible ramp and I don't if no one comes to check on it that it doesn't mean it's okay, I am still not abiding by the rules that I agreed to during the process.

Cynthia Smith: When you agreed to become a child care provider you agreed to tell these parents that they were bringing their children to a safe place. That may or may not include that handicapped ramp but you, as the provider, are going to know whether you really need that ramp. In good faith you are going to say that you might be able to put in that ramp or you might not be able to.

Commissioner Prevo: But if I agree to the licensing agency that I am going to do it as a condition of using the building as child care space I will put in the handicapped ramp but if I don't put it in as long as they don't come back to check on it, it's okay. There were conditions that were set out; they were agreed to by the applicant, there should be a reasonable expectation that they follow through.

Margaret Berglund, 1512 Richardson St., Columbia

Margaret Berglund: Since I have moved to Columbia I have been able to have a horse again. Affordability of horse care is a big thing for me. Of all the barns that I have been to that are privately owned with an indoor riding arena, this is the nicest barn I've ever been to. I don't mean that in terms of flowers but in terms of the quality of the fencing, the quality of the construction of the barn, the safety and functionality of gates. We are talking the whole thing. There was a muddy spot going out to one of the pastures and Ms. Diller had fixed that because we should be able to walk out and get our horses in a safe environment. It is a safe, functional facility. I understand the concern about 18 feet versus 20 foot and it sounds like that is something that was new.

Commissioner Freiling: There was a change in the request.

Margaret Berglund: So the fact that the driveway wasn't made to be 20 feet in 2010, I don't think Ms. Diller knew it needed to be, then she was told it was 18 feet.

Commissioner Freiling: Under that proposed use it was 18 feet. But the proposed use of the building changed and that changed the requirement of width.

Margaret Berglund: My understanding is that in 2010 is that at that point in time people were bringing up concerns about it being a commercial facility. From what I heard tonight it wasn't even brought to Ms. Diller's attention that she had the wrong kind of building permit until September 2011. That sounds like



something that the public employees could have helped in recognizing and brought to her attention sooner. I got my horse in February 2011 and after looking around, there aren't really that many indoor arenas available and those that are here were full. There is a need for these facilities and I think that is shown in that the facility is full already. As a horse owner you have expenses for special clothes, saddles, bridles, and regular trips to the veterinarian, then you need lessons and feed. Horse owners are supporting a whole economy within our community including feed stores, horse supply stores, not to mention the independent contractors like veterinarians and trainers. Encouraging operations like this that are clean, conscientious, and well run facilities are a good thing for our community. I am afraid that requiring the road to be chip sealed will force Ms. Diller to close her operation in which case I don't know where I'd go. I think putting excessive constraints on facilities such as this makes the cost of having horses higher which puts the damper on the whole equestrian economy. I also think that a chip seal is isn't a good solution for a long term dust control. My experience with chip seal is that it does break down very quickly and you have pot holes whereas something more affordable and done yearly would be magnesium chloride that you spray on and it holds the dust down. Being a frequent visitor to the area the dust put out by Booth Lane is literally a thousand times greater than any dust created by the driveway. I believe it's been said that she doesn't qualify as having the five parking spots even though there are five parking spots because it is required to have a dust free surface. My observation has been that the driveway is made of rocks, it's not made of fill that is dirt and rock; the main driveway that is shared is different. But with the driveway that comes in is rock there is no dust.

Commissioner Prevo: (to Ms. Berglund) I drove out there last week and it is a very well kept and clean facility. Do you feel that she had the understanding that two years ago when the Commission required the chip and seal as a minimum, do you think the applicant understood that requirement?

Margaret Berglund: Prior to coming to this meeting, all I knew about the whole conditional use permit is that it had been an issue when she applied. We haven't talked in detail. I knew that she was doing things that were required and that she needed to come up to code. It has appeared to me that she has been consistently doing them; one thing after the other.

Commissioner Murphy: If you are going to operate and run a business you need to do as the rules require. You can't pick and choose which requirements to meet.

Margaret Berglund: My observations tonight have been that the questions and the statements have been more along the line of sounding like people here have already made their decision and they are trying to publicly express the information that they need in order to justify that instead of listening to the information at hand. I think that the best results always come with balance and compromise. I looked at comments that were made at the 2010 hearing and it looks like everything that the neighbors asked for, with maybe a couple of exceptions, they got. I am wondering where the compromise and balance is. I am also wondering why your staff person says that in the past you've granted people a motion to table the request and tonight you didn't. A public person coming to testify, I feel that statement was not appropriate.

Commissioner Murphy: There are a lot of people here and this issue has been going on for a few years and I think that was part of the decision making.

Margaret Berglund: I understand that, but I also wonder how much of tonight is about tonight and what is happening right now and how much of it is Ms. Diller being punished for making a mistake with the permitting process when she first started; then she got the permit and now she is still being punished for the mistake back then.

Commissioner Prevo: I don't want Ms. Berglund to think it is a punishment. A lot of the compromise you speak of took place in 2010 when, despite the fact that the proper permits hadn't been obtained and proper procedures hadn't been followed, the compromise was we understand you've gotten this far as a compromise, if you agree to take the following steps we will go ahead and allow it, that is where the compromise took place. Tonight we are being asked to renege on some of our compromises so that we can go ahead and allow something even though we already compromised and it was agreed to. That is where the Commission is coming from. If this has been such an issue for the last two years why do I see an estimate that was only given earlier today as opposed to a year ago as this whole process has been taking place? Why are we waiting until the exact last minute?

Margaret Berglund: Your points are that she waited until the last minute and you've made a compromise before? The other one was that the Commission is being asked to renege on items and my understanding is that the primary thing here is the chip seal of the driveway which is one item. It is not asking the Commission to renege on it; it is asking for a modification and that modification might be a better solution than the original requirement. What I am saying is that the chip seal won't even be the best solution when you can come up with something else that might work which is spraying the dust control.

Commissioner Freiling: Although it is fraught with difficulty for us in terms of precedent for the future; that is a legitimate consideration. You are correct to perceive that there is some sense that we feel an agreement was made and not kept. Since we represent not just the public interest in this matter but public interest in the future in other matters that are similar. There is a weight to maintain an understanding that these sorts of agreements have to be kept otherwise it is chaos. There is a sense of frustration but it is because we have to keep in mind, precedence. To allow applicants to come before us, strike an arrangement and not stay with it. That is not a circumstance that you can gloss over and still serve the public interest.

Margaret Berglund: You are right, you have to be careful of precedent but I also think that you have set a precedent.

Jennifer Jones, 3908 Keystone Ct., Columbia

Jennifer Jones: I am speaking on behalf as a parent of a child who attended camp for Ms. Diller as a boarder. I understand that rules have to be followed. I run my own daycare and I know the State has certain rules for me to follow. Ms. Diller is going to fix this the best she can, I know that. I know that chip seal is financially not available, so not only am I going to lose my horse but my son is going to lose his camp. I plead with the Commission to allow a better solution for everybody; there is a better solution for the dust, please don't take this away from Ms. Diller, she is trying her best. Granted she doesn't have \$30,000 to fix the road in two years. I understand that you go in knowing what you need to do, she was completely misled by the architect, she is sorry for that. Please let there be a compromise.

Rebecca Buchholz, 2227 Concordia Dr., Columbia

Rebecca Buchholz: I brought a horse on to Ms. Diller's place on January 1, 2012 when I moved my horse from Williamsburg, MO. My understanding is you want the chip seal and the road widened for fire and ambulance service. A two horse trailer is about the size of an ambulance or fire truck, if I can get my two horse trailer up that driveway and in to that parking lot, turn it around and back it out, so can an ambulance. Regardless of whether it is paved, an ambulance will not be driving down that road at 50 mph, it is not safe. It is also a very large financial burden on Ms. Diller to get it resurfaced that perhaps we can find some kind of compromise. We are all in a tough economy right now and we could all use a financial break to get done what we need to.

Commissioner Prevo: Do you feel that a sub-standard roadway than was required by an agreement is justified by a lower cost.

Rebecca Buchholz: I don't believe she is trying to do anything sub-standard; she wants to try to do something that is just as good but not as costly.

Sheldon Toepke, 5980 N Boothe Ln., Rocheport

Sheldon Toepke: My concern is if ten years from now she sells the property to someone else we want to make sure that things are done exactly like they are supposed to be. Our biggest concern is the cost of maintaining chip seal; we all have propane trucks coming up that road. The cost of maintaining that chip seal will come to us; I ask that the Commission come up with another dust free solution. When the drive needs gravel we four neighbors talk and share the cost. We get the agreement and one of us orders the rock and bills the others per the agreement.

Commissioner Freiling: The staff report indicated that in widening the road there was a necessary culvert that was filled in and stopped functioning. The edges of the road in that stretch has been cutting in to that road. Do you believe that the road can be put in to a condition where those deteriorations will not just be remedied but will be remedied on a permanent basis?

Sheldon Toepke: I think we realize now that with the steepness of the grade when the road is fixed it does wash the north side of the road, putting in the big rock has helped. I think whatever has to be done in the future we know we have to rock that side to keep erosion down. The road was widened almost two years ago and it is in really good shape other than the wash, just in the last few months we have been getting a few potholes.

Craig James, 5950 N Boothe Ln., Rocheport

Craig James: Concerning the applicant's builder, I think sometimes contractors falsify information to get the contract, I think Red Matheny falsified telling the applicant that it is an "as-built permit, you don't need a building permit, it is built on another structure that has a permit. It is a built as-is, I will take care of it". She is not the contractor, he was. She is a victim in this; stop victimizing this person. You'll have complaints come up here about that road. Mr. McMillen has a leaky pond and that is why it is eroding that road, it never can keep water in it. You will have people say that we blocked their sunset because of the big structure; well, don't build below the hill. I cut the grass on both sides; we don't have a box spreader, he had the equipment to do a bigger tract. Four people pay for the maintenance of that road, not Mr. McMillen; he doesn't pay for anything. He is going to be the biggest complaint you have about the road that doesn't even belong to him, it's a private drive. If you tell Ms. Diller that she has to put chip seal in the economy and small business is done. I wonder if Pepper's had to come in here and get this kind of attention from these guys? It is a small business, it's a barn with ten horses in it. Kids come out and do camp from 9 to 5 during the summer; they do horse riding, horsemanship, crafts, swim, and fish. At the most you get three vehicles at the barn to ride horses. They talk about the horses; the horses don't make that much noise. Mr. Barta has bellowing cows, he sells cattle and hay but he doesn't have to have a permit because it is agriculture. She was a victim in this, stop victimizing the victim from a builder who deceived and lied to her. This neighborhood has been destroyed relationship wise; had I known it would be like this I wouldn't have lived there. If you want curbs and paved streets go live in the city. We live in the county where it is farmland. I'm sure Boone County Fairgrounds isn't chip sealed. If you say you want chip seal the neighbors will not have to worry about it anymore, it is done; the small business is over.

Present, speaking in opposition to the request:

Mike McMillen, 5800 N Boothe Ln., Rocheport

Mike McMillen: I am not here to oppose Ms. Diller's re-application, I do have some issues that I would like to bring to the Commission's attention. I own the property just west of the applicant. I wish Ms. Diller and her fiancé no ill will and continued success in her business. I do regret that she chose to put a huge facility in what is basically a residential neighborhood. The last time I came before this Commission I testified in favor of her conditional use permit.

Presented: Aerial view of the neighborhood.

Mike McMillen: The adjoining Gerzen property to the south has a conditional use permit for a horse riding facility; they too were required to chip seal their surface, they chose to asphalt rather than chip seal so precedent has been set.

Presented: Copy of applicant's request for a conditional use permit.

Mike McMillen: Since the applicant already has a conditional use permit I am assuming this is a revised permit. In looking at the legal description; it is not a legal description, it is more of a description of what is on the property.

Presented: Aerial of property showing locations of lagoon, fencing, corrals, and open-air riding arenas.

Mike McMillen: In reality, there is not 13 acres for the horses. On her application she has listed three different buildings, one of them says it is a storage and tack room. This is the original building with the yellow siding on it referenced earlier in the meeting. Looking at that building, the horsemanship classes is actually done in this area, there is a glass windowed viewing area in this room for parents to watch their children. The open structure is where horsemanship classes are taught.

Presented: Picture set up for kids birthday party.

Mike McMillen: The storage and tack room is also set up for birthday parties; you can see the barn walls in the picture. Condition M (*condition 13*) requires the applicant to plant and maintain two rows of red cedars or other suitable evergreens not more than 30 feet apart to break up the silhouette of the facility.

Presented: Picture of view of facility from McMillen's home.

Mike McMillen: I think there are only a couple of evergreens that the applicant planted; the other trees are not evergreens.

Presented: Picture of the back side of the applicant's facility.

Presented: Picture of the side view of the building.

Mike McMillen: There is only one row of trees; with the picture that the applicant showed, she had some trees in there that were not evergreens. That is not in compliance with the application. The applicant is requesting confirmation of the access drive size. I spoke with Gale Blomenkamp, Assistant Fire Marshal, and I was told that the 2009 International Fire Code, which the Boone County Fire District adopted, requires all commercial structures to have a 20 foot wide roadway with no parking on either side. The

applicant is a former firefighter with the Boone County Fire District. The applicant is requesting an alternative to the access drive surface. Condition E (*condition 5*) of the existing conditional use permit gives the applicant options. Chip and seal is a minimum requirement, other options include asphalt or concrete. I received a letter (from the applicant) on December 30, 2011 that she was told that the driveway was too steep for chip seal, she was proposing to use river rock to address the dust problem and wanted us to consider paying a portion of that cost. I spoke with former Commissioner Don Stamper last week and he informed me that the county regularly chipped & seals gravel roads because it is the least expensive way to control dust and prevent steep roads from washing out. Speaking of erosion on the north side of the road we have erosion all the way along the road. I helped the applicant put rocks in to reduce the erosion; I took my personal tractor with the loader and helped her push that rock in to the gully. The top soil from along where she widened the road was spread around her barn.

Mike McMillen: It should be noted that the land on which part of the road was built actually belongs to the Greathouse's and another part belongs to the Barta's. There was a culvert under the road and it caught the runoff on the back side of my lake. When the road was put in instead of extending the culvert it was simply buried so now there is nowhere for that water to go underneath the road. The prevailing winds in this area 78 % of the time are out of the north/northwest and the dust affects me more than it does anyone else. Everyone else lives further back from the road and it's not an issue for them, it is an issue for me.

Presented: Picture of kids at summer camp.

Mike McMillen: The dog in the picture belongs to the Toepke's and since there is no creek on the applicant's property you might conclude that they are standing in the Toepke's creek.

Presented: Picture of a utility terrain vehicle (UTV)

Mike McMillen: On several occasions I have witnessed the applicant drive kids in a UTV, some riding in the back, onto Ed Scott's property, crossing the county road to get there.

Presented: Aerial of applicant and Ed Scott's property

Mike McMillen: There is a creek on Ed Scott's property and the arrow shown on the aerial shows where I've seen the applicant take kids on to his property. You have to cross the County road (Boothe Lane) to get there. In summary, the applicants are seven and a half months late in getting the road done and is currently not in compliance with the conditional use permit. The top soil needs to be hauled in, spread and seeded with grass where erosion has occurred due to removal of the top soil. Two rows of evergreens need to be planted on both sides in order to break up the silhouette of the entire facility and that probably should include the yellow building which is attached to and used by the business as part of her business. The culvert under the road needs to be repaired/replaced to provide proper drainage. I am not opposed to the applicant's request to delay implementing the dust free surface requirement as summer would be more suitable for the application of such. I would request that the road be chemically treated to reduce dust in the meantime. In the last slide that the applicant put up she had some reference to a bully; I have regularly helped Ms. Diller on her property, I have removed snow and taken my tractor and helped her. I have sharpened the blades on her tractor and I would like to think that I am a good neighbor.

Commissioner Murphy: Do you pay any maintenance on the road?

Mike McMillen: I have no access to that road.

Commissioner Murphy: But it affects your property?

Mike McMillen: It abuts the Greathouse's property and theirs abuts mine. There is actually about a 120 foot strip between our house and the road.

Commissioner Prevo: So you don't think that you have a financial responsibility to maintain the road?

Mike McMillen: I don't use the road; I eat the dust from the road but I don't use it.

Commissioner Murphy: You said you would be agreeable to chemical treatment.

Commissioner Prevo: I think you said you would be agreeable to that until they could chip and seal the road.

Mike McMillen: Yes, extending the deadline because anything you are going to do with the road would be better done during the summer and I think an extension is warranted for that but in the meantime there needs to be some chemicals put on there; I don't think it's been done since the road was put in.

Merrilee Barta, 5966 N Boothe Ln., Rocheport

Merrilee Barta: I request that the conditions in the report that was read and was agreed to two years ago to be implemented. If the slope of the road is an issue Ms. Diller removed ample dirt while widening the road to use for her benefit instead of using it to make the road able to be chip sealed. If something else needs to be done in order to make the chip and seal withstand the test of time Ms. Diller needs to take care of it. I would like the timeline to be executed as soon as possible to get this behind us as it has already taken up a lot of time for everyone. I like to think that my husband and I have been good neighbors, prior to this we all talked and since then she doesn't speak to us unless she sends us a notice about a road meeting.

Jay Barta, 5966 N Boothe Ln., Rocheport

Jay Barta: I do not appreciate the last slide that the applicant put up. We have all been very neighborly and I don't know who would allow me to do that right here right now, that should not be allowed.

Chairperson Harris: It (the slide) got past me, I apologize.

Jay Barta: I was not going to speak tonight until that happened. As far as the road goes whatever the Commission decided on in 2010 is what we would go with. As far as widening the road I don't understand these people that agree with the applicant that it isn't necessary. If there is a safety concern as far as a fire truck goes for going up and down that road and being able to pass I don't understand why you would not want that addressed. Regarding the chip and seal surface and the erosion, by the applicant not putting in ditches on the side of the road when she originally widened it; that is why it has so much erosion. Before she did the dirt work I had put some ditches along that part of the road because we have always had erosion problems there. I usually do the grading of the road. I am somewhat concerned about the chip and seal maintenance but I feel that whatever the Boone County Commission decides on is what we should all agree to do.

Commissioner Murphy: Do you have a maintenance agreement with all the neighbors.

Jay Barta: Yes.

Commissioner Murphy: How do you feel if the applicant goes with asphalt?

Jay Barta: I am not concerned about the maintenance of the road, it could be concrete as far as I am concerned. I know it is going to be a cost, it is a cost of living in the country; it doesn't matter, if you aren't prepared for paying the costs associated with living the country then you probably shouldn't live there.

Closed to public hearing.

Debra Diller: There is no precedent with asphalt; Gerzen's direction was to chip seal, whatever he wanted was his choice. The condition for the trees says two rows; I planted two rows. The condition for the drive was 18 feet. The dust that Mike is getting is coming from Boothe Lane, not from the driveway; we can see everything because we sit on top of the hill. I would still be willing to put something down that stretch along the front of his house; I would be willing to drive a water truck down there to keep the dust down. The grade on the driveway; a couple loads of dirt isn't going to change the grade on the driveway. When we had it widened it would have taken a massive amount of dirt. We all bought property with the hill the way it was and I don't see that changing and I don't think anyone wants to pay to have that changed. Jay stopped grading the road when the conditional use permit went through two years ago; he wasn't going to support my business, there hasn't been a grader on it in two years. I think we can all get together and work on it; I mow it every week and it is in pretty good shape considering it hasn't been touched in two years.

Debra Diller: I gave you the timeline in your packet for a reason; there isn't anything that I am not trying to do, it is just taking some time. When the timeline passed up and the building was more of a priority I hired the architect who then got the drawings in. I never got the letter from Stan and then the letter came and with the 20 foot added on we had this meeting. Everything has been timely. At no time had I said absolutely no or stopped trying, look at the dates. There is no way, why would I even bother coming here if I didn't care. I know I am past the deadline but I am happy that people asked for a compromise, some sort of a balance; the economic hardship is where it is. The building will be modified to meet the six new modifications which means the road. If the road gets widened to 20 feet with gravel, is that a compromise?

Chairperson Harris: That is a discussion that we will have at some point.

Debra Diller: In the meantime the letter from Mr. Shawver said I need to pull a permit and get the barn going, there is no timeline on that but I know I am not going to be waiting on it. This is a big one, if this is going to cost a lot of money the barn is going to have to wait.

Commissioner Freiling: In a classic equine analogy, you have suffered for having the cart before the horse.

Chairperson Harris: The ingress and egress issues, lighting, alarms and those sorts of things have not been completed yet?

Debra Diller: No, those were the modifications that Mr. Shawver okayed in his letter and something to the architect about he could pull the permit and get it going. So I am confused about who pulls the permit but it says the architect should.

Thad Yonke: The property owner is always responsible for making sure there is a permit.

Debra Diller: I understand that now.

Commissioner Martin: The applicant knew in April 2010 how much the road was going to cost. I would have a lot more concern and feeling toward this if the applicant had tried to work something out with staff before hand but there is nothing in here. Now suddenly the road is an issue. It was an issue in April 2010.

Debra Diller: As soon as the contractor gave me that bid and I saw the price I knew I couldn't do anything but I also didn't know there were other options as far as coming back.

Commissioner Martin: The applicant could have contacted the staff and asked questions.

Debra Diller: I didn't know but there were a lot of other conditions I needed to do and I had a year to do it. That is why I didn't get another bid.

Commissioner Martin: Nobody knew the cost; we are not estimators. My concerns are we've sat through this and not had any kind of paper trail to help me say that is just not efficient. This could have went on for another five years had there not been a complaint.

Debra Diller: If you look at the timeline, the September letter where the driveway hit the deadline and I got the letter from Mr. Mach, he specifically said "if you keep in touch with us" and I don't know where his communication stopped but if you look on there every time it says "Planner" that is when I communicated with Mr. Mach. I made an assumption that someone was involved and that the office knew that I was doing stuff.

Commissioner Martin: I can understand the confusion about the trees but I have a hard time between April 2010 when you got the first bid. I can't do anything now, that is part of the conditions; if you knew you couldn't meet the conditions you should have informed us back then.

Debra Diller: There was no way I was going to admit that yet.

Commissioner Martin: We were here to help.

Debra Diller: I have to be honest; I am so glad you just said that you were here to help, I haven't felt that one time in this entire process.

Commissioner Martin: We are trying to find a solution.

Debra Diller: I wish I felt like you were really here to help.

Stan Shawver: I believe your timeline indicates how much we've tried to help because we gave you the benefit of the doubt and allowed you to continue on.

Debra Diller: That is helping?

Stan Shawver: Yes, that is helping.

Debra Diller: I am not perceiving that the way he and I are talking.

Commissioner Prevo: I do see that as helping. Having started four businesses in the last seven or eight years I understand that running a small business is difficult, costly, and time consuming. I have great concerns with the fact that several conditions haven't been met. I understand that you were a victim of bad



advice from contractors; if it wasn't for some latitude that you've been given and for the help of a lot of people, and the staff are very helpful in helping you understand your options.

Debra Diller: I have gotten answers.

Commissioner Prevo made a motion to table the request until next month with the understanding that the applicant meet with the members who board horses at the facility and the neighbors and see if they can come up with a way to financially meet the obligations that were set forth two years ago.

Commissioner Murphy: Is there going to be a timeline to meet these conditions?

Commissioner Prevo: I would rely on staff for that.

Thad Yonke asked for clarification of the motion.

Commissioner Prevo: I am asking for the request to be tabled and that would give the applicant time to discuss with staff and clarify the issue with the trees and what can be worked out there as well as erosion and the other conditions to help her meet these conditions that were set out two years ago. I would like to offer that one month opportunity to try to get those conditions met and worked out and get back on schedule.

Debra Diller: I wanted to table the request two hours ago. If I widen the driveway can we keep it gravel and use mag chloride?

Commissioner Prevo: That is not something I can set forth because we already have these conditions that were approved. That is why I am offering more time for you to figure it out.

Debra Diller: Is there a way to change the condition?

Chairperson Harris: My big difficulty with this whole thing is if I am told in order to continue doing what you are doing you need to meet these conditions. When I found out that it is going to cost an enormous amount I can't figure out why the applicant didn't come back before the Commission two years ago asking for a solution.

Debra Diller: What is the process when I found out it was going to be too much?

Chairperson Harris: Probably panic and coming back to the staff would have been the logical thing to do. That would have indicated to us that you took the agreement seriously rather than punting the ball two years down the road.

Debra Diller: This doesn't look that I am taking it seriously? Really?

Chairperson Harris: I am not doubting the seriousness of it, my concern is why did you not come back to us when you saw it was a \$45,000 charge and ask what your options were rather than just delaying it to the point that we get a complaint. The last thing we want to do is be perceived as not trying to help because if people will ask questions we have a pretty good track record of trying to help and educate and make things work. It is when we get the long delay that we have difficulty understanding.

Commissioner Prevo: I am asking to table the request because I would like to not so much show compassion for the applicant but for the people who use her services and to see what they can do to help. I

think if the Commission offered one month; after that time she can either bring forward a solution with a timeline in meeting all the conditions or decide that she isn't going to be able to do it.

Commissioner Dollar seconded the motion

Thad Yonke: For clarification, the Commission wants it tabled so that there is an attempt to work out compliance with the original permit conditions. If the original conditional use permit conditions are complied with the Commission expects the applicant to come back and the expectation for the new permit to be dropped.

Commissioner Dollar stated that he seconded the motion because the applicant originally wanted it tabled so her attorney could prepare her case.

Chairperson Harris: Even if the original 2010 stipulations are met but the use of the property today has changed from what it was then with the assembly designation rather than the utility designation so we still have the 20 foot driveway to deal with.

Stan Shawver: That is a building issue; to use that building as she wants to use it the building has to be brought in to compliance for a change of use. The building permit that was initially issued was to make that a utility building because it had been constructed, it was oversized, there were engineering issues as far as the design was concerned, those had to be resolved before you could even consider whether you could make it in to a residential or assembly use. The letter from Brian Connell from January were the steps that were necessary to take that building from the utility use to the point where it would be allowed to have occupancy by up to 29 people and it could be used for what would be classified as an assembly use. There were issues about smoke detectors, exits, and the additional fire access to 20 feet. That is a building issue. If coming in to compliance with the conditional use permit is one issue, making that building suitable for use as she wants to use it is a different issue altogether. It is not necessarily associated with the conditional use. When the Commission granted the conditional use they said the driveway had to be 18 feet, the Fire Marshal, in looking at the plans said for her to use that building it has to be 20 feet for access. If she doesn't want to use it for that use the 18 feet is probably fine.

Thad Yonke: But she can't use the building for any associated activity, no camp, no assembly at all.

Commissioner Murphy: If we table it we will discuss it again next month.

Stan Shawver: The Commission has conducted the public hearing portion of this request and the applicant's portion. The Commission is tabling their decision to allow the applicant to determine whether she can improve the surface of the road to comply with the conditions and to develop a schedule of compliance.

Commissioner Dollar: Will her attorney be able to make a presentation?

Chairperson Harris: No, there is no additional hearing; it will simply be the Commission's deliberation and decision.

Thad Yonke: If the Commission makes a decision other than tabling tonight it goes forward to the County Commission, in the case of a denial, the applicant can appeal the decision to the County Commission. They will then have a public hearing where she can have an attorney represent her at that public hearing.

Commissioner Freiling: My observation is that thirty days is not going to fix the issue. There is not \$40,000 in the room to fix the road; as a Commissioner I am unwilling to grant an exception to a regulation that we have routinely enforced and either have to change or continue to enforce. If an exemption is going to be granted the appropriate people to make that exemption are the elected officials, not the appointed officials. I am not sure we would be of any assistance to the applicant, for those in opposition, to just put it off for 30 days.

Commissioner Prevo made and Commissioner Dollar seconded a motion to table the Commission's decision for a request by Debra Diller to revise a permit for Riding School and Equine Boarding Facility on 13.1 acres, located at 5950 N Boothe Ln., Rocheport until the next meeting.

Boyd Harris – NO	Carl Freiling – NO
Gregory Martin – NO	Michael Morrison – NO
Brian Dollar – Yes	Eric Kurzejeski – NO
Paul Prevo – Yes	Michael Poehlman – NO
Kevin Murphy – Yes	Derin Campbell – NO

Motion to table the request does not pass

Commissioner Poehlman: Even though we live in Boone County we may have some rules that people think are over the top, I have been here long enough to know that staff is easy to work with, I've seen it happen many times. I think there is too big a gap between what is being requested and what the regulations are. Chip and seal is not the only issue, there is a fire issue and that is pretty difficult for me to swallow.

Commissioner Poehlman made and Commissioner Martin seconded a motion to deny the request by Debra Diller to revise a permit for Riding School and Equine Boarding Facility on 13.1 acres, located at 5950 N Boothe Ln., Rocheport.

Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Michael Morrison – Yes
Brian Dollar – Yes	Eric Kurzejeski – Yes
Paul Prevo – Yes	Michael Poehlman – Yes
Kevin Murphy – Yes	Derin Campbell – Yes

Motion to deny the request passes unanimously.

Chairperson Harris informed the applicant that if she wished to appeal to the County Commission an appeal form would need to be submitted to Resource Management within three working days.

## VI. Rezoning

1. Request by Dean and Debra Reinsch to rezone from R-M (Moderate Density Residential) to M-L (Light Industrial) on 3 acres, more or less, located at 11240 E I-70 Drive NE, Columbia.

Planner, Uriah Mach gave the following staff report:

The subject property is located two miles to the east of the Route Z/I-70 interchange, between the north side of I-70 and I-70 Drive Northeast. The applicants own an 11.57 acre tract. It is currently zoned R-M(Residential-Moderate Density), and has R-M zoning to the north, east, west, with A-2(Agriculture) zoning on the south side of I-70. This is all original 1973 zoning. There is currently a single family dwelling and a shed on the property. The applicant is requesting a rezoning of approximately 3 acres of the 11.57 acre tract from R-M to M-L(Light Industrial). The stated purpose of this rezoning is to construct a 4000 square foot building for purposes of manufacturing and assembly of products.

The Boone County Master Plan designates this area as being suitable for agricultural and rural residential land uses. The Master Plan also identifies a “sufficiency of resources test” to be used in determining whether there are sufficient resources available to support the proposed uses.

The sufficiency of resources test can be broken up into three categories: utilities, transportation, and public safety.

Utilities: The subject tract is located in Public Water Service District #9 for water service, Boone Electric Cooperative for electrical service, and will need to rely on a Missouri Department of Natural Resources-permitted commercial on-site wastewater system. Public Water Service District #9 serves this property with a 4” water line.

Transportation: The subject tract has direct access on to I-70 Drive Northeast, a public road maintained by the Missouri Department of Transportation.

Public Safety: The subject tract is served by the Boone County Fire Protection District for fire protection. The nearest station is approximately 5 miles away, near the Lake of the Woods exit.

Zoning Analysis: The zoning requested, M-L(Light Industrial), is an open zoning, requiring the property to be able to support all M-L uses listed by the Boone County Zoning Ordinance. Under that list of uses, this property fails to meet the sufficiency of resources test for public safety, transportation, & utility standards. A 4” water line will not be able to support the necessary fire flows for commercial/industrial activity. A Missouri Department of Natural Resources-permitted wastewater system will be required to serve any new buildings. I-70 Drive Northeast is a publicly maintained right-of-way but does not appear to lend itself to commercial traffic due to its width and that traffic would need to gain access from Route Z or across the bridge into Callaway County. The availability of public safety services is also a problem for this property given the substantial distance between the site and the nearest fire station. Many of the uses under M-L, such as retail sales, bar & tavern, restaurant, automobile service station, recycling center, contractor’s building and storage yards, bus barns, warehouses, and light manufacturing facilities have greater needs for utilities & transportation infrastructure than what this property can provide. This rezoning is out of character with the surrounding property, which has been developed with a rural residential character. That would lead to one describing this as a spot zoning. Additionally, the availability of unoccupied M-L-zoned property in this area is high. At the northeastern corner of the intersection of State Route Z & I-70, approximately 2 miles to the west, there are 188 acres of open M-L zoning. Southwest of that site, approximately 3 miles from the subject tract, there are 113.5 acres of undeveloped, but serviced, open M-L zoning. On the east side of the county along I-70, there is no lack of M-L zoning that could support the business activities desired by the applicant.

Any future requests for commercial or industrial zoning on this property should be proposed as planned variants of the desired district. Under the planned rezoning process, specific uses can be identified and evaluated, which may lower the bar for the sufficiency of resources test. Additionally, a planned request can be structured to limit the off-site impacts that would occur with the proposed use. A successful

example of such a rezoning request is the Gilbane property near the intersection of Dozier Station Road & I-70 Drive Northeast, approximately  $\frac{3}{4}$  of a mile to the west. That request, an M-LP(Planned Light Industrial), was structured and conditioned to minimize its impact on the surrounding properties when it was rezoned in 2000. It was approved and operates in compliance with the zoning regulations.

This property scored 27 points on the point rating system.

Staff notified 19 property owners about this request.

Staff recommends denial of the request.

Present, representing the request:

Tom Schneider, Attorney,

Tom Schneider: The applicants operate a small manufacturing facility kind of like a tool and die or machine shop. The existing business is located inside Columbia, but they would like to expand as they are out of space where they are. The applicants want to sever off three acres on the east end of their property for a 50' x 80' facility much like what we used to call machine shops. All activities would be inside the building as they are currently. The business currently has two employees and projects that they may have five due to expansion. The property overlooks I-70 which would drown out any noise that would be created by this facility if relocated. It does not produce odors or dust and generates virtually no traffic. The existing use, although it could be somewhat larger, is not an offensive or intrusive use in the neighborhood. The difficulty that we have with this application is that apparently in 2006 you got rid of your procedure whereby a planned zoning request the use issue was severed from the engineered issues. Previously we've asked for approval of the use concept at a particular location and are able save thousands of dollars in engineering costs. The applicants got an engineering quote after meeting with staff who suggested planned industrial; it would have been \$10,000 to \$12,000 in engineering costs just to file the application. If the use is not approved under those circumstances you might as well throw all of that engineering in the dumpster. That being the case; this is why we filed this as open zoning. I could have made it more clear in the application package that the applicants are willing to limit it to the requested use and they are willing to do so either in the rezoning or by restrictive covenants. The types of things that the staff is concerned about don't relate to the intended requested use. If a gas station were located there then many of the staff comments would be applicable but the rationale of Planning and Zoning really does not relate to this type of project. The applicants would be willing to limit the use to the stated requested use and this is not a type of use that would require the use of planned zoning as a tool to reduce or minimize impact on neighbors or to deal with offsite infrastructure; that is really what planned zoning is intended to do. We aren't going to create any offsite infrastructure and as mentioned, it doesn't create dust, noise, odor, or traffic so minimizing any intrusiveness in the neighborhood by planned zoning tools that might be available aren't really necessary in this particular case.

Tom Schneider: The staff report raises a concern about the distance of fire stations as well as the size of water supply available; this is not a process of assembly and manufacturing which involves combustibles. Since the current operation exists in town we know what the effects of this operation will be and it is not intrusive now and won't be intrusive here.

Chairperson Harris: When did the Reinch's purchase this property?

Tom Schneider: About a year ago.

Chairperson Harris: With the intent of it being changed to a commercial site or with the intent of it being their home site?

Tom Schneider: I think at the time the intention was to bring their business to their home site and I think they considered Callaway County which doesn't have zoning but decided on this particular property. I think the intent was to relocate the business out there at the time of acquisition.

Chairperson Harris: At that time were they aware that they were buying a residentially zoned property?

Tom Schneider: I assume so.

Open to public hearing.

Present, speaking in support of the request:

Carl Campbell, 12901 E. Marshall Ln., Centralia

Carl Campbell: I have been next door to the applicant's business for about thirteen years. You wouldn't know they were there unless the vehicle is out front. They don't generate any waste to speak of; they don't use any water, we are on the same meter. They are good tenants, nothing is outside the building.

Present, speaking in opposition:

Sandra Cook, 11351 I-70 Drive NE, Columbia

Sandra Cook: I believe Mr. Schneider stated the applicants had an engineering survey or something for the building in 2006, is that correct?

Bill Florea: He stated there was a change in regulations in 2006 but there is an option of zoning which requires a site plan drawn by a professional engineer.

Sandra Cook: We are all residential; I have been there for 30 years. I don't want to see a business come in. We are on the outer road, when there is a wreck on I-70, we get all the traffic and it is not big enough to support the traffic we have now; we have potholes and the County can't take care of all of it.

Ramona Wayne, 11401 I-70 Drive NE, Columbia

Ramona Wayne: I have pictures that show the big potholes that are in the road and pictures that show that we have horses and houses right across from it. I have grandchildren who ride bikes and horses on this road, there are no shoulders on the road; it is very narrow, it's 20 feet 4 inches. We have a lot of people who ride horses on this road. There are several sharp corners on the road. Also these people have a very nice lake on their property and they want to build this factory across from us so we have to look at it instead of at the other end of their property so that they can sit outside on their porch and not have to look at the factory. I think if it gets to where they have to do it they should have to build it up on the other end of their property where it faces an empty field and there is nothing right across from it.

Kenny Cook, 11351 I-70 Drive NE, Columbia

Kenny Cook: I live across from where they want to build and it is a wooded area now where they propose to build so they will have to cut down quite a few trees. If this is approved I would like to make sure that

the building is going to coincide with the residence and not be a sore thumb in the neighborhood. I own a body shop in town I've rented for 33 years. If that goes through, I have 30 acres can I build a body shop across the street?

Tony Wayne, 11401 I-70 Drive NE, Columbia

Tony Wayne: I have lived in the area for 26 years, I moved out there so we would have a place for the grandchildren. I have six grandchildren and they run between my home and Kenny Cook's with no fear whatsoever. I know the applicants have good intentions but there is no guarantee what kind of traffic will come in and out of there and at what times of the day. For the most part, there are no break-ins and it is pretty peaceful and quiet and that is the reason most of us go to the country.

Bruce Brown, 1530 N. Duvall Rd., Columbia

Bruce Brown: My wife and I bought our property about ten years ago with the intention of me retiring; we've always been city dwellers and we've always had this dream of living in the country so we finally got that opportunity about ten years ago and the only blight on the area at that time was a car repair shop on the outer road to the west. I hate to see a residential area be chipped away; we have a car repair shop and now just down the road this factory is proposed. This is not the vision that I had when I bought my property. When a property is rezoned for a different use does that zoning stay with the property when the current tenant chooses to move on?

Commissioner Freiling: Yes.

Bruce Brown: While there is a small factory being proposed it could be anything in the future once it is rezoned; it could be a bar, a junkyard, or a number of other things that we might inherit as a result of this rezoning. That worries me.

Paul Blythe, 1590 Duvall Rd., Columbia

Paul Blythe: I moved out there seventeen years ago and built my own house in order to enjoy the country life, since then the Gilbane property has become an eyesore and I think that is what most of us are worried about. Whether or not Mr. Reinsch intends to make it an eyesore at this current time it could possibly become that eyesore later. I know that wasn't Mr. Gilbane's intention when he did this but it is an awful thing to have to drive past everyday. We really don't want another one of those to pop up in our neighborhood.

Lisa Brown, 1530 N. Duvall Rd., Columbia

Lisa Brown: Our road comes out at the very end of the applicant's property. We as neighbors take care of each other; that is what it is all about. If you have been out that way you know that the road parallels I-70 pretty closely until it comes to just beyond our property then it starts to veer off to the north, then it becomes very wooded, there are a lot of ponds and a horse farm. We own chickens and goats and we have children which makes up the neighborhood that we like to call home. It has always worried us that just a little way to the east and a little to the west we are starting to see a little bit of business encroaching on a neighborhood. Some of the things that I worry about is that outer road and how narrow it is. As was pointed out earlier, when there is a problem on I-70 we get all the semi's coming down our road and it is pretty scary. There was a comment made earlier that the noise wouldn't be an issue but if we cut down the trees to put up this building then the noise from I-70 will filter in. The attorney for the applicant mentioned that some of the issues might be imaginary or they might not be real issues such as not using

water. None of this is imaginary to those of us that live out there. This is real, this is our homes and what is important to us. The future holds consequences that we can't foresee and the consequence in what might come in to that place if this family chooses to move it is quite scary for those of us that live there.

John Payne, 10951 I-70 Drive NE, Columbia

John Payne: I own approximately 160 to 200 acres in this neighborhood with another 2 houses one mile north. I have been there since 1985; I think the open zoning is a mistake, it's been referred to Mr. Gilbane's planned zoning and I am here to testify that Mr. Gilbane is in violation of the requirements that the Commission put on him. All of these people can verify that and Boone County hasn't done anything to enforce the conditions that were put on Mr. Gilbane's planned zoning. Open zoning is a mistake but restrictive covenants disappear with the change of ownership, I am a realtor and I have a lot of experience in this issue. I think this is the wrong location and if you really look at it they bought it with the intent of putting their building out there but I don't think it is the right place for it.

Closed to public hearing.

Tom Schneider: I heard a statement that if there is a change in ownership that covenants disappear, that is not a correct statement. If that is what was stated that is not the law in the State of Missouri, covenants run with the land as does zoning; it stays with the land so the limitation that the applicant is proposing would continue. We are not talking about factories, body shops, semi trucks; even the UPS trucks are only going to the applicant's facility once a month. When I referred to imaginary, the focus of that statement related to different uses that we are proposing; I understand a gas station, bar or tavern would present different issues, unfortunately because of the change in Boone County ordinances we really had no practical choice other than to request open zoning because the engineering required to file a planned zoning request was \$10,000 to \$12,000. If the use issue itself is uncertain or up in the air obviously most people can't gamble that amount of money on finding out if the use is going to be approved.

Commissioner Prevo: Did the applicants meet with the neighbors and discuss the plan?

Tom Schneider: I don't know, very commonly I send out a letter to all the neighbors and offer to meet with them and explain the project and for some reason I apparently didn't send that out, I typically do.

Commissioner Freiling: I share the practical opinion of Mr. Payne that the covenants may not legally disappear but in a practical sense they seem difficult to keep in people's presence. In a situation like this who has the right to seek remedy? Covenants are only for people who have ownership in the property covered by the covenants have a right to seek remedy, is that correct?

Tom Schneider: I don't think that it is restricted to just adjoining property owners. I have been involved in some rezonings involving subdivisions where opposing counsel has conferred enforcement rights upon neighborhood associations.

Commissioner Freiling: They weren't part of the covenanted property; they were adjacent?

Tom Schneider: Correct.

Commissioner Freiling made and Commissioner Martin seconded a motion to **deny** a request by Dean and Debra Reinsch to rezone from R-M (Moderate Density Residential) to M-L (Light Industrial) on 3 acres, more or less, located at 11240 E I-70 Drive NE, Columbia.



Boyd Harris – Yes	Carl Freiling – Yes
Gregory Martin – Yes	Michael Morrison – Yes
Brian Dollar – Yes	Eric Kurzejeski – Yes
Paul Prevo – Yes	Michael Poehlman – Yes
Kevin Murphy – Yes	Derin Campbell – Yes

Motion to deny the request passes unanimously

Chairperson Harris informed the applicant that if she wished to appeal to the County Commission an appeal form would need to be submitted to Resource Management within three working days.

## VII. Planned Developments

None

## VIII. Plats

The following items were placed on consent agenda:

1. Haystack Acres Plat 4. S18-T49N-R12W. A-R. Northwood Baptist Church, owner. James V. Patchett, surveyor.
2. Williams' Estate Plat 2. S21-T48N-R12W. R-S. Georgia R. Redden, Mildred I. Wright, John Williams, Edward Williams, George and Ethel Williams Trust FBO James Otis Williams and Betty A. Butler, owners. James R. Jeffries, surveyor.
3. The Hill at Lake Mert. S10&15-T-45N-R12W. Roger and Jeri Metensmeyer, owners. J. Daniel Brush, surveyor.

Commissioner Prevo made and Commissioner Murphy Martin seconded a motion to approve as recommended the items on consent agenda and place the staff reports in to the record.

All members voted in favor, none opposed.

Staff reports

Haystack Acres Plat 4.

The property is located on Northwood Drive, approximately ½ mile to the north of the city of Columbia. The property owners are replatting two platted lots (lot 29 of Haystack Acres Addition & Lot 1 of Haystack Acres Plat 3) into one single lot. There is a large church building located on this property, specifically Lot 1. Lot 1 of Haystack Acres Plat 3 was previously three lots from Haystack Acres Addition that have been slowly consolidated as the needs of the Church have dictated. The property is zoned A-R

(Agriculture-Residential), and was rezoned from A-2 (Agriculture) in 1978. It is surrounded by A-R zoning created in the same rezoning action in 1978.

The property has direct access on to Northwood Drive. The applicant has requested a waiver to the traffic study requirement.

The applicant has water service from Public Water Service District #4, electrical service from Boone Electric, and fire protection from the Boone County Fire Protection District.

This property has access to central sewer from the Boone County Regional Sewer District.

The property scored 73 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

#### Williams Estate Plat 2

The subject property is located to the east of the City of Columbia near the southern end of Rustic Road. It is composed of two parcels equaling 18.8 acres in size. The property is being divided into three lots by plat, and the remainder being shown as part of an administrative survey. The three platted lots are 3.00 acres, 3.08 acres, and 1.50 acres in size. The remainder is shown on the accompanying administrative survey at 12.37 acres in size. The property is zoned R-S(Residential Single-Family) and it has the City of Columbia to the west, R-S zoning on the north and south, with R-S and R-M(Residential Moderate-Density) zoning to the east. The county zonings are all original 1973 zonings.

The property has direct access to Rustic Road. The applicant has requested a waiver to the traffic study requirement.

The applicant has water service from Public Water Service District #9, electrical service from Boone Electric, and fire protection from the Boone County Fire Protection District.

The existing dwellings are currently served by on-site wastewater systems permitted by the Columbia/Boone County Health Department. Typically, this close to the City of Columbia, connecting to a central sewer would be required by the Columbia/Boone County Health Department. They have declined to do so in this case. New dwellings will be permitted to use on-site systems for wastewater needs. The applicant has requested a waiver to the wastewater cost-benefit analysis requirement.

The property divided under the administrative survey applied for and received variances for the location of the existing house and garage in February of 2012.

The property scored 63 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

#### The Hill at Lake Mert

The property is located between South Mount Pleasant Road and Highway 63, near the intersection of Soft Pit Hill Road and South Mount Pleasant, approximately 5 miles south of the City of Ashland. The property owners are splitting their property in half, transferring 5 acres to an adjacent property owner whose total acreage will exceed 20 acres, and retaining the remaining 5 acres for the existing house on the property. The property is zoned A-2(Agriculture), and surrounded by A-2 zoning. This is original 1973 zoning.

The property has access to South Mount Pleasant Road via an easement across the neighbor to the immediate north and a church north of the neighbor. The applicant has requested a waiver to the traffic study requirement.

The applicant has water service from Consolidated Public Water Service District #1, electrical service from Boone Electric, and fire protection from the Southern Boone County Fire Protection District.

This property is currently served by an on-site wastewater system permitted by the Columbia/Boone County Health Department. It is partially located on the property to the south, but a lagoon easement will be recorded with the plat. The applicant has requested a waiver to the wastewater cost-benefit analysis requirement.

The property scored 22 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

## IX. Old Business

### 1. Update on County Commission Action.

Stan Shawver updated the Commission as follows:

The Lemone, Gibbs, and Cunningham final development plans. Those were approved and the County Commission has received the final development plans so the zoning is in place and the plats are on hold until all the infrastructure is done.

Eibel plat 2 was accepted by the Commission.

## X. New Business

XI. Adjourn

Being no further business the meeting was adjourned at 10:25 p.m.

Respectfully submitted,

Secretary  
Michael Morrison

Minutes approved on this 19<sup>th</sup> day of April, 2012